

House File 2477 - Introduced

HOUSE FILE 2477

BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 559)

A BILL FOR

1 An Act relating to mechanics' liens including the establishment
2 of a state construction registry for residential
3 construction property and providing an effective date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 572.1, Code 2009, is amended to read as
2 follows:

3 **572.1 Definitions and rules of construction.**

4 For the purpose of this chapter:

5 1. "Authority" means the Iowa finance authority established
6 in section 16.2.

7 ~~1. 2.~~ "Building" shall be construed as if followed by the
8 words "erection, or other improvement upon land".

9 3. "General contractor" includes every person who does work
10 or furnishes materials by contract, express or implied, with an
11 owner. "General contractor" does not include a person who does
12 work or furnishes materials on contract with an owner-builder.

13 ~~2. 4.~~ "Labor" means labor completed by the claimant.

14 ~~3. 5.~~ "Material" shall, in addition to its ordinary
15 meaning, ~~include~~ includes machinery, tools, fixtures, trees,
16 evergreens, vines, plants, shrubs, tubers, bulbs, hedges,
17 bushes, sod, soil, dirt, mulch, peat, fertilizer, fence wire,
18 fence material, fence posts, tile, and the use of forms,
19 accessories, and equipment furnished by the claimant.

20 ~~4. 6.~~ "Owner" means the ~~record~~ legal or equitable
21 ~~titleholder and every person for whose use or benefit any~~
22 ~~building, erection, or other improvement is made, having the~~
23 ~~capacity to contract, including guardians of record.~~

24 ~~5. "Owner-occupied dwelling" means the homestead of an~~
25 ~~owner, as defined in section 561.1, and without respect to the~~
26 ~~value limitations in section 561.3, and actually occupied by~~
27 ~~the owner or the spouse of the owner, or both. "Owner-occupied~~
28 ~~dwelling" includes a newly constructed dwelling to be occupied~~
29 ~~by the owner as a homestead, or a dwelling that is under~~
30 ~~construction and being built by or for an owner who will occupy~~
31 ~~the dwelling as a homestead.~~

32 7. "Owner-builder" means the legal or equitable titleholder
33 of record who offers or intends to offer to sell the
34 owner-builder's property without occupying or using the
35 structures, properties, developments, or improvements for a

1 period of more than one year from the date the structure,
2 property, development, or improvement is substantially
3 completed or abandoned.

4 8. "Residential construction" means construction on
5 single-family or two-family dwellings occupied or used, or
6 intended to be occupied or used, primarily for residential
7 purposes, and includes real property pursuant to chapter 499B.

8 9. "State construction registry" means a centralized
9 computer database maintained and posted on the internet by
10 the authority that provides a central repository for the
11 submission and management of preliminary notices and notices
12 of commencement of work on all residential construction
13 properties.

14 10. "State construction registry number" means a number
15 provided by the authority for all construction properties
16 posted to the state construction registry.

17 ~~6.~~ 11. "Subcontractor" shall include includes every person
18 furnishing material or performing labor upon any building,
19 erection, or other improvement, except those having contracts
20 directly with the owner. "Subcontractor" shall include those
21 persons having contracts directly with an owner-builder.

22 Sec. 2. Section 572.2, Code 2009, is amended to read as
23 follows:

24 **572.2 Persons entitled to lien.**

25 1. Every person who ~~shall furnish~~ furnishes any material or
26 labor for, or ~~perform~~ performs any labor upon, any building or
27 land for improvement, alteration, or repair thereof, including
28 those engaged in the construction or repair of any work of
29 internal or external improvement, and those engaged in grading,
30 sodding, installing nursery stock, landscaping, sidewalk
31 building, fencing on any land or lot, by virtue of any contract
32 with the owner, general contractor, or subcontractor shall have
33 a lien upon such building or improvement, and land belonging
34 to the owner on which the same is situated or upon the land
35 or lot so graded, landscaped, fenced, or otherwise improved,

1 altered, or repaired, to secure payment for the material or
2 labor furnished or labor performed.

3 2. If material is rented by a person to the owner,
4 general contractor, or subcontractor, the person shall have a
5 lien upon such building, improvement, or land to secure payment
6 for the material rental. The lien is for the reasonable rental
7 value during the period of actual use of the material and any
8 reasonable periods of nonuse of the material taken into account
9 in the rental agreement. The delivery of material to such
10 building, improvement, or land, whether or not delivery is made
11 by the person, creates a presumption that the material was
12 used in the course of alteration, construction, or repair of
13 the building, improvement, or land. However, this presumption
14 shall not pertain to recoveries sought under a surety bond.

15 3. An owner-builder is not entitled to a lien under
16 this chapter as to work the owner-builder performs, or is
17 contractually obligated to perform, prior to transferring title
18 to the buyer.

19 Sec. 3. Section 572.8, subsection 1, Code 2009, is amended
20 by adding the following new paragraph:

21 NEW PARAGRAPH. *d.* The address of the property or a
22 description of the location of the property.

23 Sec. 4. Section 572.9, Code 2009, is amended to read as
24 follows:

25 **572.9 Time of filing.**

26 The statement of account required by section 572.8 shall
27 be filed by a ~~principal~~ general contractor or subcontractor
28 within two years and ninety days after the date on which the
29 last of the material was furnished or the last of the labor was
30 performed.

31 Sec. 5. Section 572.10, Code 2009, is amended to read as
32 follows:

33 **572.10 Perfecting lien after lapse of ninety days.**

34 A general contractor or a subcontractor may perfect a
35 mechanic's lien pursuant to section 572.8 beyond ninety days

1 after the date on which the last of the material was furnished
2 or the last of the labor was performed by filing a claim with
3 the clerk of the district court and giving written notice
4 thereof to the owner. Such notice may be served by any person
5 in the manner original notices are required to be served.
6 If the party to be served is out of the county wherein the
7 property is situated, a return of that fact by the person
8 charged with making such service shall constitute sufficient
9 service from and after the time it was filed with the clerk of
10 the district court.

11 Sec. 6. Section 572.11, Code 2009, is amended to read as
12 follows:

13 **572.11 Extent of lien filed after ninety days.**

14 Liens perfected under section 572.10 shall be enforced
15 against the property or upon the bond, if given, by the owner
16 or owner-builder, only to the extent of the balance due from
17 the owner to the general contractor or owner-builder at the
18 time of the service of such notice; but if the bond was given by
19 the general contractor or owner-builder, or person contracting
20 with the subcontractor filing the claim for a lien, such bond
21 shall be enforced to the full extent of the amount found due
22 the subcontractor.

23 Sec. 7. Section 572.13, Code 2009, is amended by striking
24 the section and inserting in lieu thereof the following:

25 **572.13 General contractor — owner notice — residential**
26 **construction.**

27 1. A general contractor who has contracted or will contract
28 with a subcontractor to provide labor or furnish material for
29 the property shall provide the owner with the following owner
30 notice in writing in boldface type of a minimum size of ten
31 points:

32 "Persons or companies furnishing labor or materials for
33 the improvement of real property may enforce a lien upon the
34 improved property if they are not paid for their contributions,
35 even if the parties have no direct contractual relationship

1 with the owner. The state construction registry provides
2 a listing of all persons or companies furnishing labor or
3 materials who may file a lien upon the improved property.
4 If the person or company has posted its notice to the state
5 construction registry, you may be required to pay the person or
6 company even if you have paid the general contractor the full
7 amount due. Therefore, check the state construction registry
8 internet website for information about the property including
9 persons or companies furnishing labor or materials before
10 paying your general contractor. In addition, when making
11 payment to your general contractor, it is important to obtain
12 lien waivers from your general contractor and from persons or
13 companies furnishing labor or materials to your property. The
14 information in the state construction registry is posted on the
15 internet website of the Iowa finance authority."

16 2. The notice described in subsection 1 shall also contain
17 the internet website address and toll-free telephone number of
18 the state construction registry.

19 3. A general contractor who fails to provide notice pursuant
20 to this section is not entitled to a lien and remedy provided
21 by this chapter.

22 4. This section applies only to residential construction
23 properties.

24 Sec. 8. NEW SECTION. 572.13A Notice of commencement of work
25 — general contractor — owner-builder.

26 1. A general contractor or owner-builder shall submit
27 a notice of commencement of work to the authority or post
28 a notice of commencement of work to the state construction
29 registry internet website within ten days of commencement of
30 work on the property. A notice of commencement of work is
31 effective only as to any labor, service, equipment, or material
32 furnished to the property subsequent to the posting of the
33 notice of commencement of work. A notice of commencement of
34 work shall include all of the following information:

35 a. The name and address of the property owner.

1 *b.* The name and address of the general contractor or
2 owner-builder.

3 *c.* The address of the property if the property can be
4 reasonably identified by an address or the name and a general
5 description of the location of the property if the property
6 cannot be reasonably identified by an address.

7 *d.* A legal description of the property.

8 *e.* The date work commenced.

9 *f.* Any other information prescribed by the authority
10 pursuant to rule.

11 2. If a general contractor or owner-builder fails to submit
12 a notice of commencement of work to the authority or fails to
13 post the required notice of commencement of work to the state
14 construction registry internet website pursuant to subsection
15 1, within ten days of commencement of the work on the property,
16 a subcontractor may submit or post the notice in conjunction
17 with the filing of the required preliminary notice pursuant to
18 section 572.13B.

19 3. At the time a notice of commencement of work is posted on
20 the state construction registry internet website, the authority
21 shall send a copy of the owner notice described in section
22 572.13 along with other relevant information to the owner and
23 to the property address, addressed to "owner", as prescribed by
24 the authority pursuant to rule.

25 4. A general contractor who fails to provide notice pursuant
26 to this section is not entitled to a lien and remedy provided
27 by this chapter.

28 5. This section applies only to residential construction
29 properties.

30 Sec. 9. NEW SECTION. 572.13B Preliminary notice —
31 subcontractor — residential construction.

32 1. A subcontractor shall submit a preliminary notice
33 to the authority or post a preliminary notice to the state
34 construction registry internet website. A preliminary notice
35 posted prior to the balance paid to the general contractor

1 or owner-builder by the owner is effective as to all labor,
2 service, equipment, and material furnished to the property by
3 the subcontractor. The preliminary notice shall contain all
4 of the following information:

5 *a.* The name of the owner.

6 *b.* The state construction registry number.

7 *c.* The name, address, and telephone number of the
8 subcontractor furnishing the labor, service, equipment, or
9 material.

10 *d.* The name and address of the person who contracted
11 with the claimant for the furnishing of the labor, service,
12 equipment, or material.

13 *e.* The name of the general contractor or owner-builder under
14 which the claimant is performing or will perform the work.

15 *f.* The address of the property or a description of the
16 location of the property.

17 *g.* Any other information required by the authority pursuant
18 to rule.

19 2. A mechanic's lien perfected under this chapter
20 is enforceable only to the extent of the balance due the
21 general contractor or owner-builder prior to the posting of a
22 preliminary notice specified in subsection 1.

23 3. At the time a preliminary notice is posted to the state
24 construction registry, the authority shall send notification
25 to the owner as prescribed by the authority pursuant to rule.
26 Notices under this section will not be sent to owner-builders.

27 4. A subcontractor who fails to submit or post a preliminary
28 notice pursuant to this section shall not be entitled to a lien
29 and remedy provided under this chapter.

30 5. This section applies only to residential construction
31 properties.

32 Sec. 10. Section 572.14, Code 2009, is amended by striking
33 the section and inserting in lieu thereof the following:

34 **572.14 Liability to subcontractor after payment to general**
35 **contractor or owner-builder.**

1 Except as provided in section 572.13B, payment to the
2 general contractor or owner-builder by the owner of any part or
3 all of the contract price of the building or improvement within
4 ninety days after the date on which the last of the materials
5 was furnished or the last of the labor was performed by a
6 subcontractor, does not relieve the owner from liability to the
7 subcontractor for the full value of any material furnished or
8 labor performed upon the building, land, or improvement if the
9 subcontractor files a lien within ninety days after the date
10 on which the last of the materials was furnished or the last of
11 the labor was performed.

12 Sec. 11. Section 572.15, Code 2009, is amended to read as
13 follows:

14 **572.15 Discharge of ~~subcontractor's~~ mechanic's lien — bond.**

15 A mechanic's lien may be discharged at any time by ~~the owner,~~
16 ~~principal contractor, or intermediate subcontractor~~ filing with
17 the clerk of the district court of the county in which the
18 property is located a bond in twice the amount of the sum for
19 which the claim for the lien is filed, with surety or sureties,
20 to be approved by the clerk, conditioned for the payment of any
21 sum for which the claimant may obtain judgment upon the claim.

22 Sec. 12. Section 572.16, Code 2009, is amended to read as
23 follows:

24 **572.16 Rule of construction.**

25 Nothing in this chapter shall be construed to require
26 the owner to pay a greater amount or at an earlier
27 date than is provided in the owner's contract with the
28 ~~principal~~ general contractor, unless ~~said~~ the owner pays a part
29 or all of the contract price to the ~~original~~ general contractor
30 before the expiration of the ninety days allowed by law for
31 the filing of a mechanic's lien by a subcontractor; provided
32 that in the case of ~~an owner-occupied dwelling~~ residential
33 construction, nothing in this chapter shall be construed to
34 require the owner to pay a greater amount or at an earlier
35 date than is provided in the owner's contract with the

1 ~~principal~~ general contractor, unless the owner pays a part or
2 all of the contract price to the ~~principal~~ general contractor
3 after receipt of notice under section 572.14, subsection 2 a
4 preliminary notice has been posted to the state construction
5 registry internet website pursuant to section 572.13B.

6 Sec. 13. Section 572.17, Code 2009, is amended to read as
7 follows:

8 **572.17 Priority of mechanics' liens between mechanics.**

9 Mechanics' liens shall have priority over each other in
10 the order of the filing of the statements ~~or~~ of accounts as
11 herein provided in section 572.8.

12 Sec. 14. Section 572.18, subsections 1 and 3, Code 2009, are
13 amended to read as follows:

14 1. Mechanics' liens filed by a ~~principal~~ general contractor
15 or subcontractor within ninety days after the date on which
16 the last of the material was furnished or the last of the
17 claimant's labor was performed and for which notices were
18 properly submitted or posted to the state construction registry
19 internet website pursuant to sections 572.13A and 572.13B shall
20 be superior to all other liens which may attach to or upon
21 a building or improvement and to the land upon which it is
22 situated, except liens of record prior to the time of the
23 original commencement of the claimant's work or the claimant's
24 improvements, except as provided in subsection 2.

25 3. The rights of purchasers, encumbrancers, and other
26 persons who acquire interests in good faith, for a valuable
27 consideration, and without notice of a lien perfected
28 pursuant to this chapter, are superior to the claims of all
29 general contractors or subcontractors who have perfected their
30 liens more than ninety days after the date on which the last
31 of the claimant's material was furnished or the last of the
32 claimant's labor was performed.

33 Sec. 15. Section 572.22, unnumbered paragraph 1, Code 2009,
34 is amended to read as follows:

35 The clerk of the court shall endorse upon every claim for

1 a mechanic's lien filed in the clerk's office the date and
2 hour of filing and ~~make an abstract thereof in the mechanic's~~
3 ~~lien book kept for that purpose. Said book shall be properly~~
4 ~~indexed and~~ index every claim in the office of the clerk of the
5 county where such real estate is situated. Each claim shall
6 contain the following items ~~concerning each claim:~~

7 Sec. 16. Section 572.23, subsection 1, Code 2009, is amended
8 to read as follows:

9 1. When a mechanic's lien is satisfied by payment of the
10 claim, the claimant shall acknowledge satisfaction thereof ~~upon~~
11 ~~the mechanic's lien book, or otherwise in writing,~~ and, if the
12 claimant neglects to do so for thirty days after demand in
13 writing is personally served upon the claimant, the claimant
14 shall forfeit and pay twenty-five dollars to the owner or
15 general contractor or owner-builder, and be liable to any
16 person injured to the extent of the injury.

17 Sec. 17. Section 572.30, Code 2009, is amended to read as
18 follows:

19 **572.30 Action by subcontractor or owner against general**
20 **contractor or owner-builder.**

21 Unless otherwise agreed, a ~~principal~~ general contractor ~~or~~
22 owner-builder who engages a subcontractor to supply labor or
23 materials or both for improvements, alterations or repairs
24 to a specific ~~owner-occupied dwelling~~ property shall
25 pay the subcontractor in full for all labor and
26 materials supplied within thirty days after the date
27 the ~~principal~~ general contractor ~~or owner-builder~~ receives full
28 payment from the owner. If a ~~principal~~ general contractor ~~or~~
29 owner-builder fails without due cause to pay a subcontractor
30 as required by this section, the subcontractor, or the
31 owner by subrogation, may commence an action against the
32 general contractor or owner-builder to recover the amount
33 due. Prior to commencing an action to recover the amount
34 due, a subcontractor, or the owner by subrogation, shall give
35 notice of nonpayment of the cost of labor or materials to

1 the ~~principal~~ general contractor or owner-builder paid for
 2 the improvement. Notice of nonpayment must be in writing,
 3 delivered in a reasonable manner, and in terms that reasonably
 4 identify the real estate improved and the nonpayment complained
 5 of. In an action to recover the amount due a subcontractor,
 6 or the owner by subrogation, under this section, the court
 7 in addition to actual damages, shall award a successful
 8 plaintiff exemplary damages against the general contractor
 9 or owner-builder in an amount not less than one percent
 10 and not exceeding fifteen percent of the amount due the
 11 subcontractor, or the owner by subrogation, for the labor and
 12 materials supplied, unless the ~~principal~~ general contractor or
 13 owner-builder does one or both of the following, in which case
 14 no exemplary damages shall be awarded:

15 1. Establishes that all proceeds received from the person
 16 making the payment have been applied to the cost of labor or
 17 material furnished for the improvement.

18 2. Within fifteen days after receiving notice of nonpayment
 19 the ~~principal~~ general contractor or owner-builder gives
 20 a bond or makes a deposit with the clerk of the district
 21 court, in an amount not less than the amount necessary
 22 to satisfy the nonpayment for which notice has been given
 23 under this section, and in a form approved by a judge of the
 24 district court, to hold harmless the owner or person having
 25 the improvement made from any claim for payment of anyone
 26 furnishing labor or material for the improvement, other than
 27 the ~~principal~~ general contractor or owner-builder.

28 Sec. 18. Section 572.31, Code 2009, is amended to read as
 29 follows:

30 **572.31 ~~Co-operative~~ Cooperative and condominium housing.**

31 A lien arising under this chapter as a result of the
 32 construction of an apartment house or apartment building which
 33 is owned on a ~~co-operative~~ cooperative basis under chapter
 34 499A, or which is submitted to a horizontal property regime
 35 under chapter 499B, is not enforceable, notwithstanding any

1 contrary provision of this chapter, as against the interests
2 of an owner in ~~an owner-occupied dwelling~~ a unit contained in
3 the apartment house or apartment building acquired in good
4 faith and for valuable consideration, unless a lien statement
5 specifically describing the ~~dwelling~~ unit is filed under
6 section 572.8 within the applicable time period specified in
7 section 572.9, but determined from the date on which the last
8 of the material was supplied or the last of the labor was
9 performed in the construction of that ~~dwelling~~ unit.

10 Sec. 19. Section 572.32, subsection 2, Code 2009, is amended
11 to read as follows:

12 2. In a court action to challenge a filed mechanic's lien
13 ~~filed on an owner-occupied dwelling~~, if the person challenging
14 the lien prevails, the court may award reasonable attorney
15 fees and actual damages. If the court determines that the
16 mechanic's lien was filed in bad faith or the supporting
17 affidavit was materially false, the court shall award the owner
18 reasonable attorney fees plus an amount not less than five
19 hundred dollars or the amount of the lien, whichever is less.

20 Sec. 20. Section 572.33, Code 2009, is amended to read as
21 follows:

22 **572.33 Requirement of notification for commercial**
23 **construction.**

24 1. The notification requirements in this section apply only
25 to commercial construction.

26 ~~1-~~ 2. A person furnishing labor or materials to a
27 subcontractor shall not be entitled to a lien under this
28 chapter unless the person furnishing labor or materials does
29 all of the following:

30 a. Notifies the ~~principal~~ general contractor or
31 owner-builder in writing with a one-time notice containing
32 the name, mailing address, and telephone number of the
33 person furnishing the labor or materials, and the name of the
34 subcontractor to whom the labor or materials were furnished,
35 within thirty days of first furnishing labor or materials for

1 which a lien claim may be made. Additional labor or materials
2 furnished by the same person to the same subcontractor for
3 use in the same construction project shall be covered by this
4 notice.

5 **b.** Supports the lien claim with a certified statement that
6 the ~~principal~~ general contractor or owner-builder was notified
7 in writing with a one-time notice containing the name, mailing
8 address, and telephone number of the person furnishing the
9 labor or materials, and the name of the subcontractor to whom
10 the labor or materials were furnished, within thirty days
11 after the labor or materials were first furnished, pursuant to
12 paragraph "a".

13 ~~2. This section shall not apply to a mechanic's lien on~~
14 ~~single-family or two-family dwellings occupied or used or~~
15 ~~intended to be occupied or used for residential purposes.~~

16 3. Notwithstanding other provisions of this chapter, a
17 ~~principal~~ general contractor or owner-builder shall not be
18 prohibited from requesting information from a subcontractor
19 or a person furnishing labor or materials to a subcontractor
20 regarding payments made or payments to be made to a person
21 furnishing labor or materials to a subcontractor.

22 Sec. 21. NEW SECTION. **572.33A Liability of owner to general**
23 **contractor — commercial construction.**

24 An owner of a building, land, or improvement upon which
25 a mechanic's lien of a subcontractor may be filed, is not
26 required to pay the general contractor for compensation for
27 work done or material furnished for the building, land, or
28 improvement until the expiration of ninety days after the
29 completion of the building or improvement unless the general
30 contractor furnishes to the owner one of the following:

31 1. Receipts and waivers of claims for mechanics' liens,
32 signed by all persons who furnished material or performed labor
33 for the building, land, or improvement.

34 2. A good and sufficient bond to be approved by the owner,
35 conditioned that the owner shall be held harmless from any

1 loss which the owner may sustain by reason of the filing of
2 mechanics' liens by subcontractors.

3 Sec. 22. NEW SECTION. **572.34 State construction registry**
4 **— residential construction.**

5 1. A state construction registry is created within the
6 authority. The authority shall adopt rules pursuant to chapter
7 17A for the creation and administration of the registry.

8 2. The state construction registry shall be accessible to
9 the general public through the authority's internet website.

10 3. The registry shall be indexed by owner name, general
11 contractor name, state construction registry number, property
12 address, legal description, and any other identifier considered
13 appropriate as determined by the authority.

14 4. A general contractor, owner-builder, or subcontractor
15 who posts fictitious, forged, or false information to the
16 state construction registry shall be subject to a penalty as
17 determined by the authority by rule in addition to all other
18 penalties and remedies available under applicable law.

19 5. A person may post a correction statement with respect to
20 a record indexed in the state construction registry internet
21 website if the person believes the record is inaccurate or
22 wrongfully posted.

23 6. The authority shall charge and collect fees as
24 established by rule necessary for the administration and
25 maintenance of the registry and the registry's internet
26 website.

27 7. A state construction registry fund is created within
28 the authority. Moneys collected by the authority pursuant to
29 subsection 6 shall be for the maintenance and administration of
30 the state construction registry. Section 8.33 does not apply
31 to any moneys in the fund, and notwithstanding section 12C.7,
32 subsection 2, earnings or interest on moneys deposited in the
33 fund shall be credited to the fund.

34 8. Notices may be posted to the state construction registry
35 electronically on the authority's internet website, or may

1 be sent to the authority by United States mail, facsimile
2 transmission, or other alternate method as provided by the
3 authority pursuant to rule.

4 9. The authority shall send a receipt acknowledging a notice
5 submitted by United States mail or facsimile transmission, as
6 provided by the authority by rule.

7 10. Information collected by and furnished to the authority
8 in conjunction with the submission and posting of notices
9 pursuant to sections 572.13A and 572.13B shall be used by the
10 authority solely for the purposes of the state construction
11 registry.

12 11. This section applies only to residential construction
13 properties.

14 Sec. 23. EFFECTIVE DATE. This Act takes effect July 1,
15 2011.

16 EXPLANATION

17 This bill relates to mechanics' liens including the
18 establishment of a state construction registry for residential
19 construction property and provides an effective date.

20 The bill changes all references to "principal contractor"
21 and "contractor" to "general contractor", defined in the
22 bill to mean a person who does work or furnishes materials
23 by contract, express or implied, with an owner. "General
24 contractor" does not include a person who does work or
25 furnishes materials on contract with an owner-builder.

26 The bill defines "owner-builder" as the record titleholder
27 who offers or intends to offer to sell the owner-builder's
28 property without occupying or using the structures, properties,
29 developments, or improvements for more than one year from the
30 date the structure, property, development, or improvement
31 is substantially completed or abandoned. The bill extends
32 provisions currently in the Code for general contractors to
33 owner-builders. These provisions relate to perfecting a lien,
34 the acknowledgment of a lien that has been satisfied by payment
35 of a claim, actions by subcontractors or owners to recover

1 amounts due, and certain notification requirements. The bill
2 also extends provisions for general contractors relating to
3 notification requirements for commercial construction to
4 owner-builders.

5 The bill provides that a person who intends to perfect a
6 mechanic's lien shall include the address of the property or
7 a description of the location of the property in the person's
8 verified statement.

9 The bill provides that a general contractor who has
10 contracted or will contract with a subcontractor to provide
11 labor or furnish material for the property shall provide the
12 owner with an owner notice stating that persons or companies
13 furnishing labor or materials for the improvement of real
14 property may enforce a lien upon the improved property if they
15 are not paid, even if the parties have no direct contractual
16 relationship with the owner. The notice shall also provide
17 information relating to the availability of information posted
18 on the state construction registry established by the bill.
19 A general contractor who fails to provide such notice to
20 the owner is not entitled to a mechanic's lien and remedies
21 pursuant to Code chapter 572.

22 The bill provides that a general contractor or owner-builder
23 shall submit a notice of commencement of work to the Iowa
24 finance authority or post a notice of commencement of
25 work, including certain specific information, to the state
26 construction registry.

27 The bill requires a subcontractor to submit a preliminary
28 notice to the authority or post a preliminary notice, including
29 certain specific information, to the state construction
30 registry. A preliminary notice received by the authority or
31 posted prior to the balance paid to the general contractor
32 or owner-builder by the owner is effective as to all labor,
33 service, equipment, or material furnished to the property
34 subsequent to the posting of the notice of commencement
35 of work. A subcontractor who fails to submit or post a

1 preliminary notice pursuant shall not be entitled to a lien and
2 remedy provided under Code chapter 572.

3 The bill provides that the provisions relating to the
4 requirement that a general contractor and a subcontractor
5 post notices to the state construction registry apply only to
6 residential construction properties.

7 The bill provides that payment to the general contractor or
8 owner-builder by the owner of any part or all of the contract
9 price of the building or improvement within 90 days after the
10 date on which the last of the materials was furnished or the
11 last of the labor was performed by a subcontractor, does not
12 relieve the owner from liability to the subcontractor for the
13 full value of any material furnished or labor performed upon
14 the building, land, or improvement if the subcontractor files
15 a lien within 90 days after the date on which the last of the
16 materials was furnished or the last of the labor was performed.

17 The bill provides for the creation of a state construction
18 registry for residential construction property for the
19 posting of notices by general contractors, owner-builders, and
20 subcontractors which such persons must post in order to protect
21 their lien rights. The state construction registry, once
22 created, shall be a publicly accessible centralized electronic
23 database created and maintained by the Iowa finance authority.
24 The Iowa finance authority shall adopt rules pursuant to Code
25 chapter 17A for the creation and administration of the registry
26 which shall include a specific index and which shall be funded
27 through the collection of fees. The registry provides a
28 centralized resource of all persons or companies furnishing
29 labor or materials who may file a lien upon the improved
30 property. Data collected by and furnished to the authority in
31 conjunction with the submission and posting of notices to the
32 state construction registry internet website shall be used by
33 the authority for the purposes of the registry.

34 The bill eliminates the requirement that the clerk of court
35 make an abstract of a claim for a mechanic's lien but requires

1 the clerk instead to index every claim in the office of the
2 county where such real estate is located.

3 The bill takes effect July 1, 2011.